

DOCKET FILE COPY ORIGINAL  
**RECEIVED**

Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

JUN 12 1998  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Communications Assistance for ) CC Docket No. 97-213  
Law Enforcement Act )  
 )  
 )  
To: The Commission

**REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.,  
REGARDING ASSISTANCE CAPABILITY REQUIREMENTS**

Michael Carper  
Assistant General Counsel

**NEXTEL COMMUNICATIONS, INC.**  
1505 Farm Credit Drive  
Suite 100  
McLean, Virginia 22102  
(703) 394-3000

Albert Gidari

**PERKINS COIE**  
1201 Third Ave., 40th Floor  
Seattle, WA 98101  
(206) 583-8688  
Counsel for Nextel Communications, Inc.

Dated: June 12, 1998

No. of Copies rec'd  
List A B C D E

023

## **CONTENTS**

<b>SUMMARY .....</b>	<b>1</b>
<b>I. COMPLIANCE MUST BE REASONABLY ACHIEVABLE AND CAPABLE OF COST-EFFICIENT IMPLEMENTATION .....</b>	<b>4</b>
<b>II. PRESERVING THE VOLUNTARINESS OF THE STANDARD .....</b>	<b>9</b>
<b>A. The Commission's Rule Must Ensure that Compliance         with any Safe Harbor Rule is at the Carrier's Discretion .....</b>	<b>9</b>
<b>B. The Commission's Rule Must Ensure that Standards Other         than J-STD-025 Can Be Developed By Industry to         Implement Section 103 .....</b>	<b>11</b>
<b>III. CONCLUSION .....</b>	<b>16</b>

## **SUMMARY**

Nextel Communications, Inc. ("Nextel") submits these Reply Comments regarding the scope of the assistance capability requirements necessary to satisfy the obligations imposed by Section 103 of the Communications Assistance for Law Enforcement Act ("CALEA").

Nextel continues to urge the Commission to ensure a cost-efficient implementation of CALEA with the least impact on subscriber rates. The Commission must examine the U.S. Department of Justice punch list in this light and may reject any capability that fails to meet the cost-efficiency criteria of Section 107 of CALEA.

Further, the Commission should preserve the voluntariness of any safe harbor rule it declares, leaving carriers free to choose the manner and means of compliance with Section 103. The Commission must ensure that other industry standards can be promulgated to meet the needs of specific technologies or market segments such as paging, digital dispatch or satellite.

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Communications Assistance for ) CC Docket No. 97-213  
Law Enforcement Act )  
 )

To: The Commission

**REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.,  
REGARDING ASSISTANCE CAPABILITY REQUIREMENTS**

Nextel Communications, Inc. ("Nextel"), through its attorneys, submits these Reply Comments regarding the scope of the assistance capability requirements necessary to satisfy the obligations imposed by Section 103 of the Communications Assistance for Law Enforcement Act ("CALEA") as requested by the Federal Communications Commission ("Commission") Public Notice dated April 20, 1998.<sup>1</sup>

With the comments submitted May 20, 1998, the Commission has been presented a compelling case for rejecting the so-called "punch list" of additional capabilities sought by the U.S. Department of Justice ("DOJ") and the Federal Bureau

---

<sup>1</sup> *In the Matter of Communications Assistance for Law Enforcement Act*, CC Docket 97-213, DA 98-762, (April 20, 1998) ("Public Notice") at 4.

of Investigation ("FBI"). DOJ presented little in the way of justification for including the punch list in the industry standard. DOJ bears the burden of proving that the industry standard is deficient and such proof must be more than a conclusion that surveillance would be more convenient or helpful if a certain feature or capability were provided. They have not carried that burden yet and for good reason -- the capabilities they seek exceed what Congress has authorized. In light of the overwhelming record established in this proceeding through industry and other public comments, Nextel offers no further comment on the substance of the capability requirements of Section 103 other than to urge the Commission to reject the DOJ's proffered capabilities.

However, Nextel does comment here on the clear record of concern and doubt industry has provided regarding the reasonable achievability of compliance and cost-efficient implementation of CALEA's requirements.<sup>2</sup> In stark contrast to that record, DOJ's joint comments on capability are absolutely silent on how its proposed rule, which adds undeniable complexity and therefore cost to the industry standard, satisfies the requirements of Sections 107 and 109.<sup>3</sup>

---

<sup>2</sup> See, e.g., *Comments of AirTouch Communications, Inc.*, CC Docket No. 97-213, filed May 20, 1998 at 9 [Hereinafter "*AirTouch Comments*"]; *Comments of Sprint Spectrum L.P. d/b/a Sprint PCS*, CC Docket No. 97-213, filed May 20, 1998 at 6 [Hereinafter "*Sprint Comments*"].

<sup>3</sup> *Comments Regarding Standards for Assistance Capability Requirements*, CC Docket No. 97-213, filed May 20, 1998 [hereinafter "*DOJ Comments*"].

In its initial comments, Nextel reminded the Commission that it may only promulgate a rule to implement Section 103 of CALEA that will be cost-effective, have minimal impact on subscriber rates, and protect privacy.<sup>4</sup> Further, Nextel urged the Commission to address the pending petitions that seek a reasonable achievability determination because the Commission should avoid promulgation of a rule that will be too expensive to implement and that will lead to future petitions for relief.<sup>5</sup> These issues still bear additional comment based on the submissions of others and DOJ's avoidance of the issue.

Further, Nextel and others supported the development and use of industry standards for CALEA implementation, but Nextel raised the concern that the Commission's ultimate standard not become a compliance checklist for those who choose to comply in other ways.<sup>6</sup> Compliance with a standard, and therefore the rule,

---

<sup>4</sup> See *Comments of Nextel Communications, Inc.*, CC Docket No. 97-213, filed May 20, 1998, at 4-7 (citing 47 U.S.C. § 1006(b)(1)-(4)) [hereinafter "*Nextel Comments*"].

<sup>5</sup> Reasonable achievability determinations have been sought by the Center for Democracy and Technology and the industry trade associations. See *In the Matter of Communications Assistance for Law Enforcement Act*, Center for Democracy and Technology Petition for Rulemaking under Sections 107 and 109 of [CALEA], filed March 26, 1998, at 10 [hereinafter "*CDT Petition*"]; see also Response to Petition for Rulemaking of Cellular Telecommunications Industry Association ("CTIA"), Personal Communications Industry Association ("PCIA") and United States Telephone Association, filed April 9, 1998 [hereinafter "*Joint Industry Response*"].

<sup>6</sup> *Nextel Comments* at 13.

must be recognized to be voluntary, leaving carriers free to choose other implementations that may be cheaper or more efficient for their networks.

Moreover, the Commission must not preclude other industry associations or standard-setting organizations from promulgating standards or requirements that are aimed more at specific services or technologies such as paging, digital dispatch or wireless data to the extent any of these services are covered by CALEA. CALEA certainly contemplates multiple or different standards for such industry segments so long as they meet the requirements of Section 103.

**I. COMPLIANCE MUST BE REASONABLY ACHIEVABLE  
AND CAPABLE OF COST-EFFICIENT IMPLEMENTATION**

Nextel noted in its initial comments that, under Section 107, the Commission may only set standards or requirements that implement Section 103 of CALEA by cost-efficient methods.<sup>7</sup> Without knowing the cost or impact of either J-STD-025 or the DOJ punch list, Nextel questioned how the Commission could carry out its obligations.<sup>8</sup> Thus, Nextel urged the Commission to conduct a thorough review of the

---

<sup>7</sup> *Nextel Comments* at 4-5.

<sup>8</sup> *Nextel Comments* at 5.

cost impacts of the standard and the punch list before any final rule is published or any carrier required to meet CALEA.<sup>9</sup>

Other commenters agreed with Nextel. AirTouch, for example, noted that there is no publicly available cost data on J-STD-025 or the punch list, yet one of its vendors recently advised that the punch list will increase the cost of compliance 160%.<sup>10</sup> Sprint likewise advised the Commission that the costs of compliance would burden new entrants, divert resources from the development of new technologies and be extraordinarily expensive.<sup>11</sup>

Conversely, DOJ has made no showing whatsoever. In the petition seeking to invalidate the industry standard, DOJ offered only a passing wave at the Congressional criteria, covering all of the Section 107 requirements in four enumerated paragraphs out of a 67-page pleading.<sup>12</sup> In the DOJ Comments on the

---

<sup>9</sup> *Nextel Comments* at 7.

<sup>10</sup> *AirTouch Comments* at 9 ("one vendor has advised AirTouch that the development of modifications incorporating the punch list alone could require *additional effort over 160% above* the substantial effort required to meet the industry standard.") (emphasis in original).

<sup>11</sup> *Sprint Comments* at 6 ("the proposed 'punch list' items are expected to be very expensive and, if adopted, almost certainly will exceed the authorized \$500,000,000.").

<sup>12</sup> See *In the Matter of Establishment of Technical Requirements and Standards for Telecommunications Carrier Assistance Capabilities Under the Communications Assistance for Law Enforcement Act*, Department and FBI Joint Petition for Expedited Rulemaking filed March 27, 1997 [hereinafter "*DOJ Petition*"].

scope of CALEA, not one sentence was devoted to the issue of cost-efficiency or reasonable achievability. It is clear that DOJ seeks a "CALEA-at-any-cost" solution whereas Congress emphasized that compliance would be subject to a reasonableness standard.<sup>13</sup>

As a petitioner seeking to invalidate the industry standard as deficient, DOJ has the burden of showing that its punch list satisfies the Section 107 factors. The Commission is free to reject any punch list item on the grounds that it cannot be implemented in a cost-efficient manner or because if it is implemented, subscriber rates will be adversely affected.<sup>14</sup> FBI Director Freeh recognized as much when he praised this CALEA framework:

We, too, are extremely concerned and appreciative with respect to the estimated costs which would be necessary to fund this proposal. I would . . . note that the costs, obviously, will be directly related to the solutions. . . . [t]he setting of standards and the absolutely [sic] priority goal of achieving the most efficient cost-saving methods to achieve them can be attained.<sup>15</sup>

---

<sup>13</sup> H. Rep. No. 103-837, reprinted in 1994 U.S.C.C.A.N. 3489, 3499 ("The bill establishes a reasonableness standard for compliance of carriers and manufacturers. . . . This means that if a service or technology *cannot* reasonably be brought into compliance with the interception requirements, then the service or technology *can* be deployed.") (emphasis in original) [hereinafter "House Report"].

<sup>14</sup> 47 U.S.C. § 1006(b)(1) and (3).

<sup>15</sup> *Digital Telephony and Law Enforcement Access to Advanced Telecommunications Technologies and Services: Joint Hearings before the Subcommittee on Technology and the Law of the Senate Committee on the Judiciary and the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary*, 103rd Cong., 2d Sess., 113 (1994) (Testimony of FBI Director Freeh).

Until the cost of compliance is known, the Commission cannot make such judgments, nor in fact, can industry proceed with its compliance efforts. Indeed, the Commission should address the complete cost of compliance for both J-STD-025 and the punch list on the record, giving all parties the opportunity comment and respond to these costs. Any other approach could be viewed as arbitrary.

The Commission also has been asked to find that compliance with CALEA's capability requirements is not reasonably achievable with respect to equipment, facilities or services installed or deployed after January 1, 1995.<sup>16</sup> Under Section 109, unlike Section 107(b), if the Commission finds that compliance is not reasonably achievable, carriers will be deemed in compliance with Section 103 unless the Attorney General agrees to pay the incremental costs necessary to make compliance achievable.<sup>17</sup> A reasonable achievability determination should be made as part of the Commission's decision-making as to whether any proposed rule implements CALEA by cost-efficient methods.<sup>18</sup>

---

<sup>16</sup> CDT Petition at 10. *Joint Industry Response* at 14.

<sup>17</sup> 47 U.S.C. § 1008(d).

<sup>18</sup> Of course, the result of this approach, in essence, would be to require DOJ to purchase its punch list of enhanced surveillance services.

Finally, industry has supported remand of any changes in the industry standard to the TR-45.2 subcommittee that drafted J-STD-025. DOJ has opposed the remand on the grounds that it will further delay the implementation of CALEA.<sup>19</sup> Nextel disagrees because only the industry standards setting body that drafted J-STD-025 can efficiently ensure that any such changes are compatible with it. Further, such a remand is consistent with the Congressional design for standards development to implement CALEA:

the telecommunications industry itself shall decide how to implement law enforcement's requirements. The bill allows industry associations and standard-setting bodies, in consultation with law enforcement, to establish publicly available specifications creating "safe harbors" for carriers. This means that those whose competitive future depends on innovation will have a key role in interpreting the legislated requirements and finding ways to meet them without impeding the deployment of new services.<sup>20</sup>

Accordingly, Nextel continues to support remand of any modification to the industry standard the Commission deems appropriate.

---

<sup>19</sup> *DOJ Comments* at 26.

<sup>20</sup> House Report at 3499.

## II. PRESERVING THE VOLUNTARINESS OF THE STANDARD

### A. The Commission's Rule Must Ensure that Compliance with any Safe Harbor Rule is at the Carrier's Discretion

Nextel and other commenters urged the Commission to ensure that any rule resulting from these proceedings will be a "safe harbor" and purely voluntary for carriers.<sup>21</sup> That is, CALEA permits a carrier to seek a safe harbor by complying with the resulting standard, but a carrier is free to adopt any other technical solution so long as it meets the capability requirements of Section 103.

DOJ concurs with this interpretation of CALEA on the surface.<sup>22</sup> But, DOJ apparently disagrees in practice and asks the Commission to mandate that "carriers are [not] free to disregard the Commission's standards" even though they need not comply with them.<sup>23</sup> DOJ asserts that "to the extent that the Commission's standards identify statutorily required capabilities, those *standards* will indeed be binding on industry."<sup>24</sup>

---

<sup>21</sup> See e.g., *AirTouch Comments* at 26; *US West Comments* at 28; see also *Response to Petition for Rulemaking by CTIA, the Personal Communications Industry Association and the United States Telephone Association*, filed April 9, 1998 at 13-14

<sup>22</sup> See *DOJ Comments Regarding the Commission's Authority to Extend the October 25, 1998 Compliance Date*, CC Docket 97-213, filed May 8, 1998 at 6, 12-14 (compliance with industry standard and Commission rule is voluntary; Section 103 applies whether or not there is a standard.) [hereinafter "*DOJ Extension Comments*"].

<sup>23</sup> *DOJ Comments* at 15.

<sup>24</sup> *DOJ Comments* at 16 (emphasis added).

DOJ overtly threatens any carrier that chooses an implementation other than the Commission's rule, stating that "if it does so, it assumes the risk that its efforts will be found to be inadequate in enforcement proceedings under Section 108 and 201 of CALEA."<sup>25</sup>

This is a curious concept and it underscores the need for the Commission to state requirements at the highest level. For example, if the Commission determines that it is necessary under CALEA to identify the parties to a multi-party call whenever a person is added or dropped, that should be the extent of the Commission's ruling.<sup>26</sup> As Nextel noted above, the technical implementation should be left to standards organizations to develop.

DOJ, however, would have the Commission force a specific design requirement on carriers and manufacturers by specifying *how* a carrier would report changes in parties to a call. DOJ states in its comments that some of the punch list

---

<sup>25</sup> *DOJ Comments* at 16. The Commission, like industry, should now understand the nature of the compliance debate. Threats of enforcement action from DOJ and the FBI are common when they can be used to achieve their objective such as extracting concessions on the punch list. However, such threats cross the boundary when, in another pleading on the desirability of extension, DOJ states that under of Section 108, "a carrier can be subjected to monetary penalties only after that carrier has been ordered to comply with § 103 by a court, and has refused to obey the court's order." *See DOJ Extension Comments* at 9. Such intimidation should be rejected by the Commission, which must make clear that the standard is voluntary and alternatives to it may be pursued in good faith.

<sup>26</sup> Of course, industry comments leave no doubt that the party join/drop capability sought by DOJ is not required by CALEA. *See e.g., CTIA Comments* at 14-15; *Comments of the Telecommunications Industry Association*, CC Docket 97-213, filed May 20, 1998, at 51-54.

items like party add and drop "can be implemented in only one way, and the proposed rule . . . represents the only means of satisfying the capability in question."<sup>27</sup> As the Commission knows well, CALEA prohibits DOJ from requiring "any specific design of equipment, facilities, services, features, or system configurations."<sup>28</sup> It would be an ironic twist of CALEA if DOJ could accomplish through the Commission's rulemaking here what Congress expressly precluded them from doing overtly otherwise.<sup>29</sup>

**B. The Commission's Rule Must Ensure that Standards Other than J-STD-025 Can Be Developed By Industry to Implement Section 103**

DOJ's attempt to dictate the specific technical design for CALEA implementation through this rulemaking also must be rejected because industry associations or standards setting organizations other than TR-45.2 may promulgate their own standards for specific services or technologies to which J-STD-025 does not neatly apply. Section 107 explicitly contemplates that several standards might co-exist for different services. Section 107 provides in pertinent part:

---

<sup>27</sup> DOJ Comments at 6; see also DOJ Petition at 25.

<sup>28</sup> 47 U.S.C. § 1002(b)(1).

<sup>29</sup> The Commission should also consider that adopting a specific technical implementation by rule will preclude future innovation. Manufacturers should be provided the high-level requirements, not the Stage 3 engineering design specifications. Otherwise, the Commission will be faced with petitions in the future to change the rule as new technologies are developed with different surveillance solutions that accomplish the same goal, but in a different way.

Compliance under accepted standards.--A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 103, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 106, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the Commission under subsection (b), to meet the requirements of section 103.<sup>30</sup>

Congress similarly recognized that multiple associations or organizations might set standards applicable to specific services or market segments:

The legislation provides that the telecommunications industry itself shall decide how to implement law enforcement's requirements. The bill allows industry associations and standard-setting bodies, in consultation with law enforcement, to establish publicly available specifications creating "safe harbors" for carriers. This means that those whose competitive future depends on innovation will have a key role in interpreting the legislated requirements and finding ways to meet them without impeding the deployment of new services. If industry associations or standard-setting organizations fail to issue standards to implement the capability requirements, or if a government agency or any person, including a carrier, believes that such requirements or standards are deficient, the agency or person may petition the FCC to establish technical requirements or standards.<sup>31</sup>

---

<sup>30</sup> 47 U.S.C. § 1006(a)(2) (emphasis added); *see also* 47 U.S.C. § 1006(b) ("If industry associations or standard-setting organizations fail to issue technical requirements or standards. . .") (emphasis added).

<sup>31</sup> House Report at 3499 (emphasis added). The plural usage to describe standards promulgating bodies underscores the fact that multiple organizations may have an interest in standards development for electronic surveillance for a given industry segment.

That different requirements and concerns arise with different technologies should come as no surprise, as DOJ itself has advised the Commission:

[A]s the Commission well knows, the industry is not monolithic. Different manufacturers and carriers have different capabilities and needs - a fact that Congress obviously recognized when it designed the Act's individualized extension mechanism and restrictions on enforcement orders.<sup>32</sup>

DOJ also has recognized that different standards or requirements may apply to different technology segments of the industry. In its Final Notice of Capacity under Section 104 of CALEA, DOJ only addressed certain segments of the telecommunications industry, namely those most likely to utilize J-STD-025:

However, this Final Notice of Capacity should be viewed as the first phase applicable to telecommunications carriers offering services that are of most immediate concern to law enforcement - that is, those telecommunications carriers offering local exchange services and certain commercial mobile radio services, specifically cellular service and personal communications service (PCS). . . . The exclusion from this notice of certain other telecommunications carriers that have services deployed currently or anticipate deploying services in the near term does not exempt them from any obligations under CALEA. Law enforcement will consult with these other telecommunications carriers before applicable capacity requirements are established and subsequent notices are issued.<sup>33</sup>

---

<sup>32</sup> DOJ Comments Regarding the Commission's Authority to Extend the October 25, 1998 Compliance Date, CC Docket No. 97-213, filed May 8, 1998, at 10.

<sup>33</sup> 63 Fed. Reg. 12218, 12220 (March 12, 1998).

Consistent with this approach, Nextel notes that the paging industry,<sup>34</sup> under the auspices of the Personal Communications Industry Association ("PCIA"), has promulgated requirements for traditional, one-way paging services with fixed geographic coverage, known as a "clone pager" standard.<sup>35</sup> Two additional standards are being developed by PCIA, one for advanced messaging, which apparently will define compliance for subscriber defined on-demand roaming, forwarding and redirection, two-way and acknowledgment paging, and real-time wireless packet data services; and the other for ancillary services to define compliance for caller/subscriber bridging, outdial and other real-time bridged audio services.<sup>36</sup> Nextel supports such standards efforts by specialized industry segments and the Commission should ensure that any rule it promulgates does not inhibit any other such efforts in the future.

---

<sup>34</sup> Nextel questions why paging services have been considered by DOJ and commenters as covered by CALEA. Only telecommunications carriers, as defined by CALEA, are required to meet Section 103. A telecommunications carrier does not include an information service. 47 U.S.C. § 1001(8)(B)(i). An information service under CALEA, unlike the traditional Commission definition, includes "electronic messaging services." 47 U.S.C. § 1001(6)(B)(iii). Electronic messaging services is further defined in CALEA to mean "soft-ware based services that enable the sharing of data, images, sound, writing, or other information among computing devices controlled by the senders or recipients of the messages." 47 U.S.C. § 1001(4). This, of course, is a paging service. Nextel recognizes that the Commission has an open rulemaking on defining information services under CALEA and that it may answer that question in due course. *In the Matter of Communications Assistance for Law Enforcement Act*, Notice of Proposed Rulemaking, CC Docket 97-213, FCC 97-356 (released October 10, 1997).

<sup>35</sup> The paging standard has been discussed in several pleadings before the Commission in this Docket. See e.g., *Arch Communications Group, Inc. Request for Extension of Time to Comply with the Assistance Capability Requirements of Section 103 of the Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213, filed May 22, 1998, at 3-4.

<sup>36</sup> *Id.*

This is vitally important, because as Congress recognized, "those whose competitive future depends on innovation will have a key role in interpreting the legislated requirements and finding ways to meet them without impeding the deployment of new services."<sup>37</sup> Nextel, with its unique, integrated digital services has an interest in ensuring that an accepted standard that addresses its compliance concerns is available and reasonably achievable.<sup>38</sup> J-STD-025 is one generally available standard, but as PCIA has shown, more specific standards that focus on network design and the specific information generated in the normal course of

---

<sup>37</sup> House Report at 3499.

<sup>38</sup> As noted above, Nextel does not believe that its digital paging service, which is an information service excluded under CALEA's definition of telecommunications services, is covered by CALEA at all. *See also Comments of AT&T Corp. Regarding Scope of CALEA Capabilities*, CC Docket No. 97-213, filed May 20, 1998, at 17-22 (Cellular Digital Packet Data, Short Message Service and Paging exempt from CALEA). Similarly, Nextel's Direct Connect service, which is not connected to the public switched network as are traditional common carriers covered by CALEA, should be exempt from CALEA. *See In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, 9 FCC Rcd 1411, (adopted February 3, 1994; as corrected March 30, 1994; as corrected May 12, 1994), ¶ 90. Nextel recognizes that the Commission currently is considering whether the definition of commercial mobile radio service ("CMRS") should be different under CALEA and no doubt will consider this issue in that proceeding. *In the Matter of Communications Assistance for Law Enforcement Act*, Notice of Proposed Rulemaking, CC Docket 97-213, FCC 97-356 (released October 10, 1997); *see also In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, (released December 23, 1997) (treating certain SMR systems as exempt from E911 requirements even though classified as CMRS). However, for purposes of these comments, the Commission must understand the need to not only clearly define the capabilities required under CALEA, but also to clearly state which services are covered and to what extent. This is critical to a cost-efficient implementation of CALEA and to the development of appropriate standards to ultimately implement any such requirements.

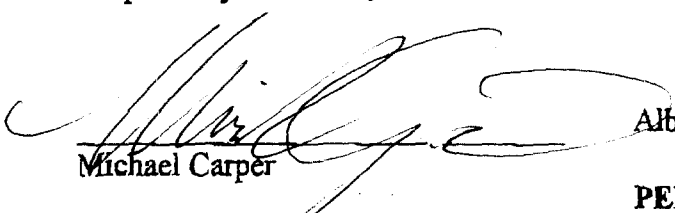
business by the communications method may be more desirable. The Commission rule should not foreclose such a result.

### III. CONCLUSION

Nextel strongly urges the Commission to conduct a complete cost analysis of CALEA implementation in order to comply with the Congressional mandate that any rule be cost-efficient, have minimal impact on subscriber rates and protect the privacy of communications not otherwise authorized to be intercepted. The Commission should preserve the voluntariness of any safe harbor rule it declares and ensure that other industry standards can be promulgated to meet the needs of specific technologies or market segments.

#### NEXTEL COMMUNICATIONS, INC.

Respectfully submitted,



Michael Carper

Assistant General Counsel  
1505 Farm Credit Drive  
Suite 100  
McLean, Virginia 22102  
(703) 394-3000

Dated: June 12, 1998

Albert Gidari

**PERKINS COIE**  
1201 Third Ave., 40th Floor  
Seattle, WA 98101  
(206) 583-8688

Counsel for Nextel Communications, Inc.

## **CERTIFICATE OF SERVICE**

I, Susan Hornbrook, hereby certify that on this 12th day of June, 1998, a copy of the foregoing Reply Comments of Nextel Communications, Inc., was delivered either by U.S. Mail or hand delivery (noted by asterisk) to the following:

Federal Communications Commission:

The Honorable William E. Kennard, Chairman \*  
Federal Communications Commission  
1919 M Street, N.W. - Room 814  
Washington, D.C. 20554

The Honorable Harold Furchtgott-Roth, Commissioner \*  
Federal Communications Commission  
1919 M Street, N.W. - Room 802  
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner \*  
Federal Communications Commission  
1919 M Street, N.W. - Room 832  
Washington, D.C. 20554

The Honorable Michael Powell, Commissioner \*  
Federal Communications Commission  
1919 M Street, N.W. - Room 844  
Washington, D.C. 20554

The Honorable Gloria Tristani, Commissioner \*  
Federal Communications Commission  
1919 M Street, N.W. - Room 826  
Washington, D.C. 20554

Christopher J. Wright \*  
General Counsel  
Federal Communications Commission  
1919 M Street, N.W. - Room 614  
Washington, D.C. 20554

Linda Morrison \*

Office of the General Counsel  
Federal Communications Commission  
1919 M Street, N.W. - Room 614  
Washington, D.C. 20554

Daniel Phythyon, Chief \*  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W. - Room 5002  
Washington, D.C. 20554

David Wye (15 copies) \*  
Technical Advisor  
Federal Communications Commission  
2025 M Street, N.W. - Room 5002  
Washington, D.C. 20554

Tim Maguire \*  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W. - Room 5002  
Washington, D.C. 20554

A. Richard Metzger, Chief \*  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W. - Room 500B  
Washington, D.C. 20554

Geraldine Matise \*  
Chief, Network Services Division  
Common Carrier Bureau  
2000 M Street, N.W. - Room 235  
Washington, D.C. 20554

Kent Nilsson (5 copies) \*  
Deputy Division Chief  
Network Services Division  
Common Carrier Bureau  
2000 M Street, N.W. - Room 235  
Washington, D.C. 20554

David Ward \*  
Network Services Division  
Common Carrier Bureau  
2000 M Street, N.W. - Room 210N  
Washington, D.C. 20554

Marty Schwimmer \*  
Network Services Division  
Common Carrier Bureau  
2000 M Street, N.W. - Room 290B  
Washington, D.C. 20554

Lawrence Petak \*  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M Street, N.W. - Room 230  
Washington, D.C. 20554

Charles Iseman \*  
Policy Division  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M Street, N.W. - Room 230  
Washington, D.C. 20554

Jim Burtle \*  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M Street, N.W. - Room 230  
Washington, D.C. 20554

David Sylvar \*  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M Street, N.W. - Room 230  
Washington, D.C. 20554

Mark C. Rosenblum  
Ava B. Kleinman  
Seth S. Gross  
AT&T Corp.  
Room 3252F3  
295 North Maple Avenue  
Basking Ridge, NJ 07920

Douglas I. Brandon  
VP, External Affairs and Law  
AT&T Wireless Services  
Fourth Floor  
1150 Connecticut Avenue  
Washington, DC 20036

Dean Grayson  
Lucent Technologies, Inc.  
Corporate Counsel  
1825 "Eye" Street, NW  
Washington, DC 20006

Catherine Wang  
Swidler & Berlin  
Ericsson Inc.  
3000 "K" Street, NW  
Suite 300  
Washington, DC 20007

The Honorable Janet Reno  
Attorney General  
Department of Justice  
Constitution Ave. & 10th Street, NW  
Washington, DC 20530

Stephen W. Preston  
Deputy Assistant Attorney General  
Civil Division  
Department of Justice  
601 D Street, NW  
Washington, DC 20530

Douglas N. Letter  
Appellate Litigation Counsel  
Civil Division  
Department of Justice  
601 D Street, NW  
Washington, DC 20530

The Honorable Louis J. Freeh  
Director  
Federal Bureau of Investigation  
J. Edgar Hoover Building  
935 Pennsylvania Avenue, NW  
Washington, DC 20535

Larry R. Parkinson  
General Counsel  
Federal Bureau of Investigation  
935 Pennsylvania Ave, NW  
Washington, DC 20535